



## YOUTH COMMUNITY CORRECTIONS BUREAU STANDARD OPERATING PROCEDURES

Procedure No. YCC 200-9	Subject: <b>INCOME WITHHOLDING ORDERS</b>
Chapter 200: FINANCIAL & PROGRAM SERVICES	Page 1 of 6
Applicable ACA Standards:	Revision Date: 01-06-09
Signature: /s/ Karen Duncan	Effective Date: 10-10-08
Signature: /s/ Steve Gibson	

### I. BUREAU DIRECTIVE:

Pursuant to [41-5-1525, MCA](#), the Regional Administrative Officers (RAO), at their discretion, may initiate immediate and/or delinquency income withholding for parents who have been ordered by youth court to pay a cost-of-care contribution for their child(ren). This procedure will be reviewed annually and updated as needed.

### II. DEFINITIONS:

**Cost-of-Care Contribution** - a monthly cost of care amount determined by the District Youth Court to be appropriate based on the financial information submitted by the parents of youth committed to the DOC or Youth Court and placed out of the home.

**CSED** - the Child Support Enforcement Division of the Department of Public Health and Human Services.

**Delinquency** - occurs when a parent has not paid their court-ordered monthly cost-of-care contribution for two consecutive months.

**Disposable Income** - that part of earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

**Income Withholding Order** - means an order or other legal process directed to an obligor's employer, as provided in [Title 40, chapter 5, parts 3 and 4](#), or by a tribunal of another state to withhold support from the income of the obligor. ([40-5-103, MCA](#))

**Order for Cost-of-Care Contribution** - the order issued by Youth District Court requiring parent(s) or guardian(s) to contribute toward the cost of out-of-home placements for youth. [[41-5-1525 \(2\), MCA](#)]

**SEARCHS** - the CSED recordkeeping system for child support.

### III. PROCEDURES:

- A. **Immediate Income Withholding** - Immediate income withholding (up to 50% of disposable income) is initiated if a parent voluntarily wants their income to be withheld or, if in the RAO's judgment, a parent is unlikely to pay their contribution each month (i.e., the parent has been uncooperative in providing financial information) and the RAO has knowledge of the parent's employer.

Procedure No.: YCC 200-9	Chapter 200: FINANCIAL & PROGRAM SERVICES	Page 2 of 6
Subject: <b>INCOME WITHHOLDING ORDERS</b>		

1. Have the parent sign a [Voluntary Withholding Authorization \[YCC 200-9 \(A\)\]](#) if they voluntarily want their income withheld.
2. If necessary, mail an [Employment Verification Form \[YCC 200-9 \(B\)\]](#) to the party whom the RAO believes to be the employer along with a self-addressed, stamped envelope.
3. Prepare a Motion for Income Withholding [[YCC 200-9 \(C\)](#) if the withholding is voluntary or [YCC 200-9 \(D\)](#) if otherwise].
4. Prepare an Income Withholding Order [[YCC 200-9 \(E\)](#) if the withholding is voluntary or [YCC 200-9 \(F\)](#) if otherwise].
5. If the County Attorney participates in the process, send the Motion and Order to them along with a prepared [Affidavit of RAO \[YCC 200-9 \(G\)\]](#) if the County Attorney requires it (otherwise a simple cover letter explaining why a withholding order is being pursued is sufficient)].
6. If the County Attorney does not participate in the process, send the Motion and Order to Department legal counsel, who will sign the Motion.
7. File the Motion and Order received with the Clerk of Court.
8. When the signed Order is received from the County Attorney or Clerk of Court, mail it to the employer along with the [Acknowledgment and Receipt of Service \[YCC 200-9 \(H\)\]](#) and a self-addressed, stamped envelope.
  - a. Follow-up for return of the Acknowledgment and Receipt of Service.
  - b. If the Acknowledgment and Receipt of Service is not returned within a reasonable length of time, contact the Sheriff's Office in the employer's county and have the employer served with the Income Withholding Order.
  - c. On the Parent Form on the Fiscal Database, check off Income Withholding (based on District Court order); also be sure to enter the appropriate dates in the Withholding Order Dates boxes.

**B. Delinquency Income Withholding** - Delinquency income withholding (up to 50% of disposable income) is initiated when the parent is delinquent in their payments and has not responded to a dunning letter and/or a [Warning of Withholding \[YCC 200-9 \(I\)\]](#). [Note: The RAO may initiate delinquency withholding if payments are inconsistent in frequency or amount, even though a full two consecutive months of payments were not missed.]

Procedure No.: YCC 200-9	Chapter 200: FINANCIAL & PROGRAM SERVICES	Page 3 of 6
Subject: <b>INCOME WITHHOLDING ORDERS</b>		

1. If necessary, mail an [Employment Verification Form \[YCC 200-9 \(B\)\]](#) to the party whom the RAO believes to be the employer along with a self-addressed, stamped envelope.
2. Prepare a Motion for Income Withholding [[YCC 200-9 \(C\)](#)] if the withholding is voluntary or [[YCC 200-9 \(D\)](#)] if otherwise].
3. Prepare an Income Withholding Order [[YCC 200-9 \(E\)](#)] if the withholding is voluntary or [[YCC 200-9 \(F\)](#)] if otherwise].
4. If the County Attorney participates in the process, send the Motion and Order to them along with a prepared [Affidavit of RAO \[YCC 200-9 \(G\)\]](#) if the County Attorney requires it (otherwise a simple cover letter explaining why a withholding order is being pursued is sufficient)].
5. If the County Attorney does not participate in the process, send the Motion, Order, and all supporting documents to Department legal counsel, who will sign the Motion.
6. File the Motion and Order received from the Department legal counsel with the Clerk of Court.
7. When the signed Order is received from the County Attorney or Clerk of Court, mail it to the employer along with the [Acknowledgment and Receipt of Service \[YCC 200-9 \(H\)\]](#) and a self-addressed, stamped envelope.
  - a. Follow-up for return of the Acknowledgment and Receipt of Service.
  - b. If the Acknowledgment and Receipt of Service is not returned within a reasonable length of time, contact the Sheriff's Office in the employer's county and have the employer served with the Income Withholding Order.
  - c. On the Parent Form on the Fiscal Database, check off Income Withholding (based on District Court order); also be sure to enter the appropriate dates in the Withholding Order Dates boxes.

**C. Existing Child Support Follows the Child** – The RAO should, if possible, establish income withholding for employers of absent parents - who are currently paying child support to the custodial parent through CSED – to pay the Department rather than CSED.

1. When initially obtaining financial information on a placed youth's parents, look for a child support case on SEARCHS.
2. If a case is found, contact the CSED caseworker to determine if the child support follows the child.

Procedure No.: YCC 200-9	Chapter 200: FINANCIAL & PROGRAM SERVICES	Page 4 of 6
Subject: <b>INCOME WITHHOLDING ORDERS</b>		

3. If the child support follows the child, request a copy of the order establishing the child support, along with any other documentation that can be provided, from the CSED worker. [Note: CSED is prohibited from providing the name of the parent's employer (and possibly even the address of the parent), so actually being able to collect from the absent parent is problematic. Other avenues will likely have to be pursued to obtain the necessary information.]
4. Prepare a [Motion for Income Withholding \[YCC 200-9 \(J\)\]](#).
5. Prepare an [Income Withholding Order \[YCC 200-9 \(K\)\]](#).
6. If the County Attorney participates in the process, send the Motion, Income Withholding Order, and the copy of the order establishing child support to them along with a prepared [Affidavit of RAO \[YCC 200-9 \(G\)\]](#) if the County Attorney requires it (otherwise a simple cover letter explaining why a withholding order is being pursued is sufficient)].
7. If the County Attorney does not participate in the process, electronically send the Motion, Income Withholding Order, and the copy of the order establishing child support to, Department legal counsel, who will sign the Motion.
8. File the Motion, Income Withholding Order, and the copy of the order establishing child support received from the Department legal counsel with the Clerk of Court.
  - a. When the signed Order is received from the County Attorney or Clerk of Court, mail it to the employer along with the [Acknowledgment and Receipt of Service \[YCC 200-9 \(H\)\]](#) and a self-addressed, stamped envelope.
  - b. Follow-up for return of the Acknowledgment and Receipt of Service.
9. If the Acknowledgment and Receipt of Service is not returned within a reasonable length of time, contact the Sheriff's Office in the employer's county and have the employer served with the Income Withholding Order.
10. On the Parent Form on the Fiscal Database, check off *Income Withholding* (based on CSED case); also be sure to enter the appropriate dates in the Withholding Order Dates boxes.

**D. Recordkeeping** - In the Date Due box on the Parents Form on the Fiscal Database, enter "77". Run a list of the "77" parents at least once per month.

1. Review the Parental Contribution Status Forms for receipt of payment.

Procedure No.: YCC 200-9	Chapter 200: FINANCIAL & PROGRAM SERVICES	Page 5 of 6
Subject: <b>INCOME WITHHOLDING ORDERS</b>		

2. Review the Parental Contribution Status Forms for parents who have paid in full so the appropriate action can be taken.
3. Print and mail the forms (sans invoice) to the parents so they may be informed as to the status of their obligation.

#### **E. Vacating Income Withholding Orders**

1. When a parent's obligation has been paid in full, mail a letter to the employer instructing them to cease income withholding and that an order vacating the income withholding will be forthcoming.
2. Prepare a [Motion to Vacate Income Withholding \[YCC 200-9 \(L\)\]](#).
3. Prepare an [Order Vacating Income Withholding \[YCC 200-9 \(M\)\]](#).
4. If the County Attorney participates in the process, send the Motion and Order to them along with a prepared [Affidavit of RAO \[YCC 200-9 \(G\)\]](#) if the County Attorney requires it (otherwise a simple cover letter explaining the obligation has been paid in full is sufficient)].
5. If the County Attorney does not participate in the process, electronically send the Motion and Order to Department legal counsel, who will sign the Motion.
6. File the Motion and Order received from the Department legal counsel with the Clerk of Court.
7. When the signed Order Vacating Income Withholding is received from the County Attorney or Clerk of Court, mail it to the employer.
8. If the employer overpays the Department, instruct the DPHHS Fiscal Bureau CAPS Trust Account staff to refund the appropriate amount to the parent (provide the parent's name and address) and adjust the payments on the Parents Form on the Fiscal Database (do not delete the payment; enter a negative payment to show all or part of the payment was returned).

**[Important exception to the above: If the Income Withholding Order was for an existing CSED case, the order must be vacated when the youth is released to the custodial parent or other party, and CSED must be notified of the change in situation.]**

#### **IV. CLOSING:**

Procedure No.: YCC 200-9	Chapter 200: FINANCIAL & PROGRAM SERVICES	Page 6 of 6
Subject: <b>INCOME WITHHOLDING ORDERS</b>		

Questions concerning this procedure shall be addressed to the Financial & Program Services Supervisor.

**V. REFERENCES:**

[25-13-614, MCA](#) [Earnings of Judgment Debtor](#)  
[41-5-1525, MCA](#) [Contribution for Costs – Order for Contribution – Exceptions – Collection](#)

**VI. ATTACHMENTS:**

[YCC 200-9 \(A\) Voluntary Withholding Authorization](#)  
[YCC 200-9 \(B\) Employment Verification Form](#)  
[YCC 200-9 \(C\) Motion for Income Withholding - Voluntary](#)  
[YCC 200-9 \(D\) Motion for Income Withholding - Non-Voluntary](#)  
[YCC 200-9 \(E\) Income Withholding Order - Voluntary](#)  
[YCC 200-9 \(F\) Income Withholding Order - Non-Voluntary](#)  
[YCC 200-9 \(G\) Affidavit of RAO](#)  
[YCC 200-9 \(H\) Acknowledgement and Receipt of Service by Mail](#)  
[YCC 200-9 \(I\) Warning of Withholding](#)  
[YCC 200-9 \(J\) Motion for Income Withholding - Follows Child](#)  
[YCC 200-9 \(K\) Income Withholding Order - Follows Child](#)  
[YCC 200-9 \(L\) Unopposed Motion to Vacate Income Withholding](#)  
[YCC 200-9 \(M\) Order Vacating Income Withholding](#)